### FORMAL COMPLAINT FORMAL COMPLAINT FORM



RESS 12951 N. Tail	wind Dr.	OxoValley	A285755	PHONE (	HOME) 2:219120
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#### ARIZONA CORPORATION COMMISSION COMPLAINT

Additional Page 1 of 3

COMPLAINANT:

THOMAS PATZKE

PHONE:

714-8765949

**COMPLAINT NUMBER:** 

105556

DATE:

ADDRESS:

SEPTEMBER 19, 2012 12951 N TAILWIND DR

ORO VALLEY, AZ 85755

NAME OF RESPONSIBLE PARTY:

TEP

CARMINE TILGHMAN LAWRENCE LUCERO

#### **GROUNDS FOR COMPLAINT:**

**TUCSON ELECTRIC POWER COMPANY (TEP)** failed to pay me the full, contracted rebate of \$36,800.00 as stipulated in the 2011 Renewable Energy Credit Purchase Program (RECPP) of \$2.00 per watt and contracted between us.

#### FACTS:

On August 31, 2011, TEP formally accepted my application under the 2011 RECPP and reserved a rebate for my 18.4 KW Photovoltaic System in the amount of \$36,800 (Exhibit A)

On or about December 2011/January 2012, **TECHNICIANS FOR SUSTAINABILITY (TFS)**, my approved installer, submitted an incomplete "Certificate of Completion" (COC) to TEP, which was basis for the initial incentive check in the amount of \$32,544 The original COC submittal to TEP was incomplete, because TEP pushed to meet year end deadlines and TFS felt a rush to comply. I was confronted with this fact, while on vacation, unable to provide numerous cost items incurred by me for the system's installation.

The check for \$32,544 was first issued to TFS, my TEP approved installer, on January 9, 2012, per my "Assignment of Payment" agreement with TEP. Upon my request and mutual agreement by all parties, the check was re-issued to me, Thomas Patzke, on February 27, 2012. (Exhibit B)

On February 15, 2012 I formally filed an amendment to the originally submitted COC in coordination with and under direction from Ms. Blanka Anderson, who is TEP's Customer Service Representative for TEP's RECPP program. (Exhibit C) During the process of amending the original COC, I made several disclosures to TEP:

- 1. An outline of expenses, which identified payment detail of additional expenses incurred by me.
- 2. I disclosed the names of my two sons and the amount they were paid.
- I disclosed expenses for gravel to be placed around my ground mounted PV system to ease the Town of Oro Valley's concern about weed suppression and fire prevention.
- I disclosed an \$8,035 settlement with TFS and the amount of write off taken by them for disputed labor expenses. I accounted for that amount referencing the original COC to update, correct and fully disclose my final System Cost of \$73,381.00
- 5. I disclosed to Ms Anderson that I personally performed/subcontracted certain construction functions on my PV system.

On March 30, 2012, Mr. Tilghman from TEP, who appears to be Ms. Anderson's supervisor, formally approved my request to include my additionally submitted expenses (Exhibit E) and on or about April 25, 2012 issues an additional check in the amount of \$4,256.00 to TFS, my approved installer, which now would have brought the total rebate paid to \$36,800.00 per RECPP agreements between TEP and Patzke.

On April 9, 2012, TEP formally accepted the installation of my system per letter to me. (Exhibit A1)

On April 27, 2012, TFS acknowledges to me that they have received the \$4,256.00 check from TEP and based on the mutual settlement of disputed labor invoices between TFS and Patzke, advises that they will forward said check to me. (Exhibit F) Within 38 minutes of TFS' email to me, Mr. Tilghman from TEP interferes and raises issues that had never been issued (...missing receipts?) or have previously been settled (Disclosures 1. to 5. above) and acknowledged per his own testimony on March 30, 2012 (EXHIBIT E) Mr. Tilghman's interfering and intimidating email prompted TFS to return the disputed check to TEP, where it now sits in dispute to be resolved before this court.

#### CONCLUSIONS:

AZCC Complaint Patzke v. TEP Complaint # 105556 Additional Page 3

TEP is in **breach of the RECPP agreement** between TEP and Patzke, unless they immediately re-issue the contractually remaining rebate in the amount of \$4,256.00 to Patzke, as Mr. Tilghman stated he would in his email from April 12, 2012. **(EXHIBIT G)** 

TEP is acting in **Bad Faith** when they cite my good faith disclosures made to them on February 15, 2012 and after (**EXHIBIT C**) as reason to withhold or deny payment of a contractual rebate, since all my prior disclosures have become an inseparable and undisputed part of the final rebate check of \$4,256.00 along with Mr. Tilghman's testimony from March 30, 2012 (**EXHIBIT E**)

#### NATURE OF RELIEF SOUGHT:

Immediate payment of my contractual rebate balance of \$4,256.00 Attorneys fees
Loss of wages for missed work to attend hearing

Howas Pateke

Thomas A. Patzke 12951 N Tailwind Dr Oro Valley, AZ 85755 714-8765949 Date

Sep 19, 2012





August 31, 2011

Thomas A Patzke 12951 N Tailwind Dr Tucson: Az 85737

Service Address: 12951 N Tailwind Dr

Dear Thomas A Patzke:

Thank you for your interest in Tucson Electric Power's Renewable Energy Credit Purchase Program (RECPP). Your Residential Solar Photovoltaic Packet was received on this day of, 2011, and your funds have been reserved pending final approval. The reservation is based on a system size of 18330 watts at \$2.00 per watt.

Proof of project advancement in the form of a jurisdictional permit must be provided and your system must be properly installed and operational within the timelines provided for in the RECPP Agreement. Your installer will be responsible for providing this documentation and regulation adherence. Final approval is contingent upon your system passing the jurisdictional code inspection and final acceptance by our technical team. Your incentive payment will be processed when we receive the Certification of Completion provided by your installer.

We look forward to working with you. More information is available online at tep.com/green. If you have additional questions or concerns, please contact our customer care representatives at 520-623-7711.

Sincerely,

The TEP Renewable Energy Tearn



April 9, 2012

Thomas A Patzke 12951 N Tailwind Dr Oro Valley, Az 85737

RE: Installation Address: 12951 N Tailwind Dr

Installer: TFS

Dear Thomas A Patzke:

Your Residential Solar Photovoltaic (PV) system meets all specifications outlined in Tucson Electric Power's (TEP) Renewable Energy Credit Purchase Program (RECPP) Up-Front Incentive (UFI) Agreement, a copy of which is enclosed for your records. All other conditions of our program also have been met, including successful completion of code inspections.

Your incentive check has been issued in accordance with instructions provided during the application process. Payment will be sent to the appropriate entity within three weeks of the date of this letter. Additionally, TEP will file and issue a 1099-MISC form for this payment, as required by the Internal Revenue Service. A copy of this form will be issued no later than January 31st of the following year.

This letter serves as permission to operate the photovoltaic generating system installed at 12951 N Tailwind Dr in parallel with TEP's electric distribution system. TEP's authorization for the operation of this facility is subject to all the terms and conditions of the RECPP UFI Agreement and Interconnection requirements contained within.

Thank you for your interest in TEP's renewable energy program. If we can be of further assistance, please visit us at tep.com or contact one of our customer service representatives at (520) 917-3673.

Sincerely,

The TEP Renewable Resource Team

**Enclosure** 



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Tucson Electric Power Company PO BOX 3033 TUCSON, AZ 85702-3033

Fax No. 520-545-1327

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Tom <ThPatzke@aol.com>

To: "<BAnderson@tep.com>" <BAnderson@tep.com>

Co: "<kpatzke@aol.com>" <kpatzke@aol.com>

Re: Incentive payment



Blanka.

Can we talk on the phone in the morning? I can give you a little more background information and you can give me some more guidance on what you want me to outline and how to do it.

Regards, Tom Patzke 714-8765949

On Feb 14, 2012, at 16:36, <BAnderson@tep.com> wrote:

Mr. Patke: Thank you for communication. Understandably we have changes in costs; however, once a file has been paid and needs to be re-opened with such drastic changes an outline of the reasons will need to be submitted. As a regulated utility all files must be complete and follow a clear trail should auditing question any step taken in the process.

I can assure you that TFS submitted the COC in a timely manner as is the normal course of business for them. Especially timely under my direction to get everything from 2011 submitted in order to be paid in 2011.

If you can send me an outline of the changes in costs as requested above, we can review and process accordingly. I'll need also to arrange for your 1099 to reflect the new incentive amount as well.

Have a nice evening.

Blanka Anderson REST/Residential Coordinator Noutline - no receipts requested!

From: Tom [mailto:thpatzke@aol.com]
Sent: Monday, February 13, 2012 3:15 PM

To: Anderson, Blanka Cc: Karin Patzke

Subject: Re: Incentive payment

Blanka.

Thanks so much for going through the effort of re-auditing our project.

The initial certificate of completion was hastily submitted by TFS, our contractor, did not include all invoices and was incomplete. That started the confusion.

Please let me know if I can help with documents or explanations of what happened or what was submitted.

Thanks again.

Regards.

Tom Patzke 714-8765949

On Feb 13, 2012, at 15:32, <<u>BAnderson@tep.com</u>> wrote:

Mr. Patzke: Good afternoon. I will go ahead and pull your file and review the project costs again. I did receive multiple Certificates of Completion for your project and believe that the final COC was sent AFTER I had already paid the project out. Please let me review this carefully and get back with you in the morning. If needed, I will also arrange for a corrected W-9 to be sent.

Thanks,

Blanka Anderson

Thomas Patzke <thp <banderson@te="" <k="" co:="" kaah="" patzke="" re:="" reb.<="" tep="" th="" to:=""><th>ep.com&gt; <banderson@tep.com> patzke@aol.com&gt;</banderson@tep.com></th><th>March 28, 2012 5:17 PM</th><th>c. Vi exe</th></thp>	ep.com> <banderson@tep.com> patzke@aol.com&gt;</banderson@tep.com>	March 28, 2012 5:17 PM	c. Vi exe
Blanka,			
any News yet on m	y file and final payment? Thanks for the update.		
Tom Patzke 714-8765949			
On Mar 12, 2012, a	at 9:45 AM, <banderson@ten com=""> <banderson@ten.c< td=""><td>o⊕&gt; wrote:</td><td></td></banderson@ten.c<></banderson@ten>	o⊕> wrote:	
customer file,	Good morning. Thank you for your follow-up we need to perform an audit review. I do ap v-up within a couple of days.	here. As this requires a reopen of a clo ologize that this is taking some time. I c	sed do
Thanks,			
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	<u>d.com</u>		ang a ang ang manggan ang ang ang ang ang ang ang ang a
Blanka,			
I received the re	e-issue of the original check. Thank you.		
I am now waiting	g for the remainder of the rebate to be paid. Any up	date on that?	
Thank you mucl	h,		
Tom Patzke			
To: thpatzke <ti>Cc: kpatzke <kp Sent: Fri, Feb 1</kp </ti>	ssage on < <u>BAnderson@tep.com&gt;</u> npatzke@aol.com> oatzke@aol.com> 7, 2012 11:16 am atzke TEP rebate		
corrected in bits	e worked with Accounting to re-issue the original ches and pieces by virtue of the computer system we haw will be processed next week.	eck to you (in your name). Unfortunately this was here at TEP. The remainder is under rev	error is iew with m
Lapologize for the	he delay in responding. I have been working on this	s behind the scenes.	

Thanks, Blanka From: Tom [mailto:thpatzke@aol.com]
Sent: Friday, February 17, 2012 11:06 AM

To: Anderson, Blanka Cc: Karin Patzke

Subject: Fwd: Patzke TEP rebate

Blanka.

I am resending my email from two days ago: just wanted to be sure that you received it, since I had not heard from you.

Thank you.

Than

Regards, Tom Patzke 714-8765949

Begin forwarded message:

From: Tom Patzke <thpatzke@aol.com>
Date: February 15, 2012 12:14:50 MST

To: BAnderson@tep.com Cc: kpatzke@aol.com

Subject: Re: Patzke TEP rebate

Blanka,

The breakdown is as follows:

TFS original COC submitted \$65,088.00
Missing Invoices from Patzke \$16,328.00
Credit from TFS Settlement - \$8,035.00

Total System Cost \$73,381.00

The "Credit from TFS Settlement" pertains to a labor invoice from TFS to me that was included in the original \$65,088.00 submission to TEP. That invoice was subsequently reduced by \$8,035.00, therefor reducing the cost of my system and explaining the credit.

TFS settlement disclosed to TEP!

I have attached a spreadsheet of final costs that TFS did not submit in their original submission of COC to you: \$16,328.00 This information you should have already had, according to Erika from TFS, since she told me it had been forwarded to you.

Blanka, again, it is unfortunate that TFS chose to hastily submit a COC to you, without having accounted for all costs. "Haste makes waste" and this is a prime example. I don't understand the rush...?!

Again, I have been unable to deposit your original check for \$32,544.00, because it was made out to TFS and then endorsed to me, which is unacceptable to Wells Fargo. All my accounts with TFS are settled and it would be better, if I return your rebate check in exchange for a corrected check.

I hope this is the "outline" you were looking for. Thanks and sorry for all the extra work we are going through.

Regards,

Tom Patzke 714-8765949

----Original Message----

From: BAnderson < BAnderson@tep.com>

To: thpatzke <thpatzke@aol.com>
Cc: kpatzke <kpatzke@aol.com>
Sent: Wed, Feb 15, 2012 9:25 am
Subject: RE: Patzke TEP rebate

Yes. There's a significant change. I understand missing a few hundred dollars but we speaking of thousands from the first to the second to the third submission. I am sure you understand I need to be able to defend/explain the difference should auditing question me the person that made the payment.

Thank you so much for your help.

BA

From: Tom [mailto:thpatzke@aol.com]

Sent: Wednesday, February 15, 2012 9:20 AM

To: Anderson, Blanka Cc: <kpatzke@aol.com>

Subject: Re: Patzke TEP rebate

When you say "outline", do you mean additional invoice from first submission? If so, yes I can send that.

Regards, Tom Patzke 714-8765949

On Feb 15, 2012, at 8:56, <BAnderson@tep.com> wrote:

Mr. Patke: Good morning. We have a significant change from the first submission to the final submission of the COC. I am happy to reissue monies if necessary; however, I need to have an outline of the nearly \$10,000 difference. Understandably travel and the pressure from TEP to get things paid in 2011 made the communications more difficult and for my part I certainly apologize; however, the resolution will remain the same. Is this outline something that TFS can provide or you can send me?

Please let me know how I can help.

BA

From: Tom Patzke [mailto:thpatzke@aol.com] Sent: Wednesday, February 15, 2012 8:30 AM

To: Anderson, Blanka
Cc: kpatzke@aol.com
Subject: Patzke TEP rebate

Blanka,

at the bottom of this email, you will find correspondence between Erika from TFS and myself. As a matter of explanation it is important to note that TFS was the contractor on this job, but that certain items, like grubbing, clearing, grading, trenching, conduit installation, foundation prep, pouring concrete footers, steel for rack, rack mounting etc, etc. were subcontracted by me and not by TFS. Final accounting and billing for those items was coming from me to TFS.

Self install disclosed!

Our PV system was commissioned by TEP and taken live on December 28, 2011. During this time I was vacationing in Northern Idaho. After the New Year Holliday, Erika called to ask me for receipts of items subcontracted by me. Since I was in Idaho and not in Tucson, where all the records are, I told Erika that I would get all billing to her upon my return and as soon as all invoices are in my possession.

I do not understand where the sudden rush came from, but as you can see below, Erika proceeded to submit COC numbers to you, without waiting for final accounting from me. As soon

as she told me that, I asked her immediately to rescind the submission to TEP, since it was incomplete and would result in a large rebate error. (See below.)

Erika then told me that she had communicated with you and that upon her receipt of final invoicing from me, she would submit that invoice to TEP and you offered to re-open the file. I subsequently sent Erika my final invoicing for \$16,328.00, which she had promised to forward to you.

I was surprised, when TEP issued their check to TFS, without consideration of the final invoice amount.

Per TFS final calculation, our System Costs were \$73,381.00

Blanka, the TEP rebate check was made out to TFS and since my account with TFS was settled, they endorsed your rebate check in the amount of \$32,544.00 and sent it to me. Wells Fargo Bank will not accept that check from me and I am suggesting that I send the check back to you for reissue.

Please advise.

Call with any questions you may still have.

Regards,

Tom Patzke 714-8765949

# Final Invoices Patzke Solar

## Patzke Solar

Gannon Rental, AJ Leasing	\$200.00	ď	£1 200 00
Dump Trailer Rental, AJ Leasing	\$95.00	2 5	00.002,1%
Skid Steer/Earls AIM Comittee		2	\$1,140.00
Citiz Group Ally Services	\$200.00	32	\$6,400.00
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Pioneer Book Grand		A CONTRACTOR CONTRACTO	\$150.00
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Kris Lavandero, Supervision, Labor	\$35.00	8	<b>40 800 00</b>
Nick Patzke, Labor	\$25.00	38	\$2,000.00
Chris Patzke, Labor	\$25.00	20 46	00.000
Sub-Total		CO	\$875.00
oub-10tal			\$16.328.00



Thomas Patzke <hpatzke@aol.com>
To: <CTilghman@Tep.com> <CTilghman@Tep.com>
Cc: <kevin@tfssolar.com>, <BAnderson@tep.com>

Re: Solar Incentive

1 Attachment, 2.8 MB

Dear Mr. Tilghman:

Thank you for your response from earlier this afternoon.

For your reference I am attaching a copy of your original rebate checks, in the amount of \$32,544.00 to Technicians for Sustainability (TFS), dated January 9, 2012. As you can see, I am still in possession of that original check. It was endorsed by TFS to me: Tom or Karin Patzke. TFS endorsed the check to me because all outstanding balances between TFS and myself were settled. Since Wells Fargo Bank was unwilling to accept the endorsed check, <u>your office</u> issued a replacement check in my name, "Patzke, Thomas A" on Febuary 27, 2012 in the amount of \$32,544.00, which I deposited.

Consistent with that prior action and in order to not having to repeat the same lengthy process of a TFS endorsement of your \$4,256.00 check back to me, a Wells Fargo rejection of that check and a subsequent much delayed and burdensome reissue, I am kindly asking that you make the final check payable to "PATZKE, THOMAS A" — just like you did before on Febuary 27, 2012.

Thank you for helping expedite this long and tedious process -- it it greatly appreciated.

Tom Patzke 714-8765949

TEP Check C...pdf (2.8 M

E

On Mar 30, 2012, at 4:33 PM, <CTilghman@Tep.com> <CTilghman@Tep.com> wrote:

Dear Sir.

I have reviewed your file regarding your request for the inclusion of additional expenses on your solar system. Our records indicate that you have already received an incentive check in the amount of \$32,544.00. The maximum amount of incentive to be received from the 18.4 kW PV system, at \$2.00 per watt, is \$36,800.

Although I find several of your expenses to be questionable, I have spoken to the owner of Technicians for Sustainability and he has testified that most of the expenses seem reasonable. As such, I am authorizing the remaining \$4,256 be paid directly to Technicians for Sustainability, the rightful owner of all incentives associated with this installation, as authorized by you on July 21, 2011 on the Assignment of Payment form submitted along with your application.

No further action is required on your part regarding this matter, and TEP now considers this matter closed. Thank you.

Carmine A. Tilghman Director - Renewable Resources & Programs UniSource Energy Office: (520) 745-7108

Cell: (520) 906-4343 Fax: (520) 545-1536 All.

Before that check is sent to anyone else, TEP is still waiting on the actual receipts for the additional work that performed. We were only provided a spreadsheet of expenses and not actual receipts. We processed the paperwork in order to expedite the process, but that does not alleviate the responsibility of providing me the necessary documentation I requested previously. If I do not receive those receipts immediately, I will consider both parties to have submitted a fraudulent claim and will use all resources available to have our ratepayers money returned to them.

Carmine A. Tilghman Director - Renewable Resources & Programs UniSource Energy

Office: (520) 745-7108 Cell: (520) 906-4343 Fax: (520) 545-1536

From: tfskevin@gmail.com [mailto:tfskevin@gmail.com] On Behalf Of Kevin Koch

Sent: Friday, April 27, 2012 6:58 AM

**To:** Thomas Patzke **Cc:** Tilghman, Carmine **Subject:** TEP incentive

F

Dear Mr. Patzky,

We are mailing a check to you for the additional TEP incentive we were sent as a result of the additional costs you submitted to them. While we do not feel that you have paid the appropriate balance for the work we completed, we did say that you should pay us what you think is fair, and we will abide by that statement. However, in turning the incentive payment over to you, we are in no way acknowledging that the additional costs you submitted to TEP for your project are legitimate, nor are we accepting any responsibility should those expenses at some time be deemed fraudulent or otherwise not supported by the accounting and expenses you provided to TEP.

Kevin Koch Technicians for Sustainability 612 N 7th Ave.; Tucson, AZ 85705

(520)740-0736 www.tfssolar.com CTilghman@Tep.com

To: <thpatzke@aoi.com>

Cc: <BAnderson@tep.com>, <kevin@tfssolar.com>

RE: Patzke Incentive payments



•

1 Attachment, 31 KB

April 12, 2012 4:59 PM

Dear Sir.

Attached you will find a PDF copy of your signed "Assignment of Payment", dated July 21, 2011, which assigns all incentives through Tucson Electric Power's Renewable Energy Credit Purchase Program (RECPP) to TFS. This is consistent with the previous incentive, which was made out to TFS. TEP only cut another check in order to assist the two parties in getting the funds to you – which was done with full knowledge and consent of both yourself and TFS.

However, in this instance, it is obvious from Mr. Koch's earlier e-mail that there is a financial dispute between the two parties, and TEP will not authorize a re-direct of the funds to yourself without TFS's permission, which has not been granted. Any further financial dispute between yourself and TFS should be resolved through the appropriate venue.

As I stated in my previous e-mail, TEP considers this matter to be closed. Thank you.

Carmine A. Tilghman Director - Renewable Resources & Programs UniSource Energy

Office: (520) 745-7108 Cell: (520) 906-4343 Fax: (520) 545-1536

From: Thomas Patzke [mailto:thpatzke@aol.com]

Sent: Thursday, April 12, 2012 11:05 AM

To: Tilghman, Carmine Cc: Anderson, Blanka

Subject: Patzke Incentive payments

Mr. Tilghman,

The TEP incentive payments for my recently installed system have been handled in an inconsistent manner by your office.

Please provide me a copy of my signed application that shows the recipient election for the incentive payments.

Tom Patzke 714-8765949

On Mar 30, 2012, at 9:22 PM, <<u>CTilghman@Tep.com</u>> <<u>CTilghman@Tep.com</u>> wrote: